

Introduced by Senator Hancock

February 24, 2012

An act to amend Sections 10912 and 38134 of the Education Code, relating to school property.

LEGISLATIVE COUNSEL'S DIGEST

SB 1404, as introduced, Hancock. School property: Civic Center Act.

Existing law, known as the Civic Center Act, authorizes a school district governing board to grant the use of school facilities or grounds as a civic center, for specified purposes, upon terms and conditions deemed proper by the governing board. Existing law authorizes a school district governing board to charge a fee, not to exceed the school district's direct costs, as defined, for use of the school facilities or grounds by entities that promote youth and school activities or that arrange for and supervise sports league activities for youths.

Existing law also requires a school district governing board to charge an entity a fee equal to the fair rental value, as defined, of the school facilities or grounds in the case of entertainments or meetings where the entity using the school facilities or grounds charges admission fees or solicits contributions and the net receipts are not expended for the welfare of pupils of the school district or for charitable purposes.

This bill would expand the definition of direct costs that a school district governing board may charge an entity for the use of school facilities or grounds to include all of the following: a share of the operating and maintenance costs proportional to the use of school facilities or grounds by the entity using those facilities or grounds under this provision; a share of the amortized costs of repair, refurbishment, or replacement of the school facilities or grounds proportional to that

entity's use of school facilities or grounds; and costs incurred as a result of that entity's use of school facilities or grounds that a school district would not otherwise incur. The bill would allow a governing board to determine direct costs as categorized by the type of facility or grounds generally, rather than by costs incurred at a specific facility by a particular entity.

The bill also would require a school district to charge a fee equal to the fair market value, as defined, of the school facilities or grounds in the case of an entertainment or meeting where the entity using the school facilities or grounds charges an admission fee or solicits contributions, and the net receipts are not expended for the welfare of pupils of the school district or for charitable purposes.

This bill would also make a conforming change to a related provision of existing law.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 10912 of the Education Code is amended
2 to read:

3 10912. The governing body of a school district may require
4 persons, other than ~~students~~ *pupils*, or organizations desiring to
5 use the recreational facilities on school grounds or belonging to a
6 school or the facilities *or grounds* provided by the *school* district
7 at a community recreation center maintained solely by the *school*
8 district, to pay fees for the use as the governing body may
9 prescribe, *and as required by Section 38134*.

10 SEC. 2. Section 38134 of the Education Code is amended to
11 read:

12 38134. (a) (1) The governing board of ~~any~~ *a* school district
13 shall authorize the use of ~~any~~ school facilities or grounds under
14 its control, ~~when if~~ an alternative location is not available, ~~to~~ *by a*
15 ~~nonprofit organizations, and clubs or associations~~ *organization,*
16 *or by a club or an association* organized to promote youth and
17 school activities, including, ~~but not limited to:~~, *but not necessarily*
18 *limited to, any of the following:*

19 ~~(1)~~

20 (A) ~~The Girl-Scouts, Scouts; the Boy-Scouts, Scouts; or Camp~~
21 ~~Fire, Inc.~~

1 ~~(2) Parent-teachers' associations.~~

2 ~~(B) A parent-teacher association.~~

3 ~~(3) School-community~~

4 ~~(C) A school-community advisory councils council.~~

5 ~~This~~

6 (2) ~~This~~ subdivision ~~shall~~ does not apply to ~~any~~ a group that
7 uses school facilities or grounds for fundraising activities that are
8 not beneficial to youth or public school activities of the *school*
9 district, as determined by the governing board.

10 (b) Except as otherwise provided by law, ~~the~~ a governing board
11 may charge an amount not to exceed its direct costs for use of its
12 school facilities. ~~Each~~ A governing board that ~~decides to levy~~ levies
13 these charges shall first adopt a policy specifying which activities
14 shall be charged an amount not to exceed direct costs.

15 (c) The governing board of ~~any~~ a school district may charge an
16 amount, not to exceed its direct costs for use of its school facilities
17 ~~or grounds by any the entity using the school facilities or grounds,~~
18 including a religious organization or church, that arranges for and
19 supervises sports league activities for youths as described in
20 paragraph (6) of subdivision (b) of Section 38131.

21 (d) The governing board of ~~any~~ a school district that authorizes
22 the use of school facilities or grounds for the purpose specified in
23 paragraph (3) of subdivision (b) of Section 38131 shall charge the
24 church or religious denomination an amount at least equal to the
25 *school* district's direct costs.

26 (e) In the case of ~~entertainments or meetings~~ *an entertainment*
27 ~~or a meeting~~ where ~~an admission fees are~~ *fee is* charged or
28 contributions are solicited, and the net receipts are not expended
29 for the welfare of the pupils of the *school* district or for charitable
30 purposes, a charge *equal to fair market value* shall be levied for
31 the use of ~~the~~ school facilities or grounds ~~which charge shall be~~
32 ~~equal to fair rental value.~~

33 (f) If ~~any group activity~~ *the use of school facilities or grounds*
34 ~~under this section~~ results in the destruction of school property, the
35 ~~group~~ *entity using the school facilities or grounds* may be charged
36 for an amount necessary to repay the damages, and further use of
37 *the facilities or grounds by that entity* may be denied.

38 (g) As used in this section, ~~“direct:~~

39 (1) (A) *“Direct costs”* to the *school* district for the use of school
40 facilities or grounds ~~means those~~ *includes all of the following:*

1 (i) *The share of the costs of supplies, utilities, janitorial services,*
2 *services of any other school district employees, and salaries paid*
3 *school district employees necessitated by the organization's use*
4 *of the school facilities and grounds of the district. to operate and*
5 *maintain school facilities or grounds that is proportional to the*
6 *use of the school facilities or grounds by the entity using the school*
7 *facilities or grounds under this section.*

8 (ii) *The share of amortized costs of repair, refurbishment, or*
9 *replacement of school facilities or grounds, including artificial*
10 *turf fields, that is proportional to the use of the school facilities*
11 *or grounds by the entity using the school facilities or grounds*
12 *under this section.*

13 (iii) *The costs incurred from the use of school facilities or*
14 *grounds by the entity using the school facilities or grounds under*
15 *this section that would not otherwise be incurred by the affected*
16 *school district.*

17 (B) *In determining direct costs, a school district may consider*
18 *costs as categorized by the type of facility or grounds, and, for*
19 *example, a school district may consider athletic facilities or*
20 *auditoriums generally rather than consider the costs incurred at*
21 *a specific facility by a particular entity.*

22 (2) *"Fair market value" means the price determined by the*
23 *governing board of a school district as the most probable price*
24 *that the use of a property should bring in a competitive and open*
25 *market under all conditions requisite to a fair sale, the buyer and*
26 *seller acting prudently and knowledgeably, and assuming the price*
27 *is not affected by an undue stimulus.*

28 (h) ~~As used in this section, "fair rental value" means the direct~~
29 ~~costs to the district, plus the amortized costs of the school facilities~~
30 ~~or grounds used for the duration of the activity authorized.~~

31 (i) ~~Any~~

32 (h) (1) *A school district authorizing the use of school facilities*
33 *or grounds under subdivision (a) shall be is liable for any injuries*
34 *an injury resulting from the negligence of the school district in the*
35 *ownership and maintenance of those the school facilities or*
36 *grounds. Any group An entity using school facilities or grounds*
37 *under subdivision (a) shall be this section is liable for any injuries*
38 *an injury resulting from the negligence of that group that entity*
39 *during the use of those the school facilities or grounds. The school*
40 *district and the group entity using the school facilities or grounds*

1 *under this section* shall each bear the cost of insuring against its
2 respective risks, and shall each bear the costs of defending itself
3 against claims arising from those risks. ~~Notwithstanding~~
4 (2) *Notwithstanding* any other ~~provision of law~~, this subdivision
5 shall not be waived. ~~Nothing in this subdivision shall be construed~~
6 ~~to~~ *This subdivision does not* limit or affect the immunity or liability
7 of a school district under Division 3.6 (commencing with Section
8 810) of Title 1 of the Government Code, for injuries caused by a
9 dangerous condition of public property.

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